

LARRY J. CALDWELL (SBN 88867)
larry.caldwell@caldwellfirm.net
CALDWELL LAW FIRM
12100 Wilshire Boulevard, 8th Floor
Los Angeles, California 90025
Telephone: (310) 356-7566

Attorneys for Defendants,
Roca Labs, Inc.; Roca Labs, Nutraceutical U.S.A., Inc.;
Don Juravin; and George C. Whiting

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

Zachary Lake, on behalf of himself and all similarly situated, and the general public,

Plaintiffs,

V.

Roca Labs, Inc.; Roca Labs,
Nutraceutical U.S.A., Inc.;
Don Juravin; and George C. Whiting,

Defendants.

) CASE NO. 15:8892 DMG PJW
)
) **DECLARATION OF LARRY**
) **CALDWELL AND EXHIBITS A**
) **TO D IN SUPPORT OF**
) **DEFENDANTS' NOTICE OF**
) **MOTION AND MOTION**
) **(1) TO DISMISS UNDER RULE**
) **12(b)(6); OR**
) **(2) TO STAY PROSECUTION**
) **UNDER THIS COURT'S**
) **INHERENT AUTHORITY; OR**
) **(3) TO TRANSFER UNDER 28**
) **U.S.C. § 1404(a)**
)
) Date: January 22, 2016
) Time: 9:30 a.m.
) Courtroom: 7 [Spring Street]
)
)
) First Amended Complaint Filed:
) October 19, 2015
) (Los Angeles Superior Court)

1 1. I am an attorney licensed to practice in the State of California
2 and before this court since 1979. I am the attorney of record for all
3 defendants in action. As such, I have personal knowledge of each of the
4 following facts. I could and would give competent testimony regarding
5 each such fact.

6 2. Attached as Exhibit A is a true and correct copy of the current
7 version of the Federal Trade Commission's advertising guidelines for dietary
8 supplements. This document was downloaded from the FTC's website by
9 the declarant on November 23, 2015.

10 3. Attached as Exhibit B is a true and correct copy of the
11 Complaint in the civil action entitled *Federal Trade Commission v Roca*
12 *Labs, Inc.; Roca Labs, Nutraceutical U.S.A., Inc.; Don Juravin; and George*
13 *C Whiting*, United States District Court for the Middle District of Florida
14 case no. 8:15-cv-02231-MSS TBM (the "FTC Action"). The declarant
15 downloaded this document from the court's electronic docket.

16 4. Attached as Exhibit C is a true and correct copy of the First
17 Amended Complaint on file in *Zachary Lake, on behalf of himself and all*
18 *others similarly situated, and the general public, Plaintiff, v. Roca Labs,*
19 *Inc., a Florida Corporation; Roca Labs, Nutraceutical USA, Inc., a Florida*
20 *Corporation, Don Juravin, George C. Whiting, and Does 1 through 10,*
21 *inclusive, Defendants*, Case no. BC559016 in the California Superior Court
22 for Los Angeles County. This copy of the First Amended Complaint does
23 not bear plaintiff's counsel's signature. That is because the First Amended
24 Complaint was deemed filed as of a certain date by Order of the court,
25 without plaintiff's counsel submitting a signed copy of the First Amended
26 Complaint for filing. The copy attached as Exhibit C is the operative
27 complaint in the *Lake* action. The First Amended Complaint has not been
28 served on defendants Don Juravin and George C. Whiting, so their time to

1 respond to the First Amended Complaint has not begun to run. Because no
2 Notice of the Order granting leave to file the First Amended Complaint was
3 ever served on original defendants, Roca Labs, Inc. and Roca Labs, U.S.A.
4 Nutraceutical, Inc., their time to respond to the First Amended Complaint
5 also has not begun to run.

6 5. Attached as Exhibit D is a true and correct copy of the
7 Preliminary Injunction Order issued in the FTC Action. The declarant
8 downloaded this document from the court's electronic docket.

9 6. Before filing defendants' accompanying Motion, I met and
10 conferred by telephone and e-mails with plaintiff's counsel, Amy Wootton.
11 She and I determined that the parties cannot agree on any of the relief sought
12 in this Motion. Therefore, it was necessary for defendants to file this
13 Motion.

14 I declare under penalty of perjury under the laws of the State of
15 California that the foregoing is true and correct to the best of my knowledge.
16 Signed by me on this 23rd day of November, 2015, in Los Angeles, Florida.
17

18 /S/Larry J. Caldwell
19 Larry J. Caldwell
20
21
22
23
24
25
26
27
28